

### REMARKS

This paper is in response to the office action mailed October 7, 2004. Claims 1-24 remain under consideration in the application. Claims 1, 2, 4, 7-9, 11, and 14 have been currently amended. Claims 15-24 have been newly added. The "Summary of the Invention" section has been replaced. No new matter has been added. Reconsideration and further examination of the application is respectfully requested.

The invention relates to a method and apparatus for simulating fill flash in photography by determining distances from a camera to objects in a scene, taking a photograph without the use of flash, and selectively adjusting the brightness of regions in the photograph based on the distance information.

In the specification:

The section entitled "Summary of the Invention" has been replaced so that it conforms more closely to Applicant's claims.

In the claims:

Claims 1, 2, 4, 7, 8, 11 and 14 have been currently amended by removing ordinal designations from the listed steps in each claim. These amendments are to emphasize that the steps listed in the claims may, within the scope of those claims, be performed in orders different than as listed. Applicant's specification does not limit the ordering of the steps, and in at least some cases discloses example embodiments that perform the steps in orders different than listed in the claims. For example, claim 1 as amended lists the steps of determining distances from the camera to objects in a scene; taking a photograph of the scene without using a flash; and selectively adjusting the brightness of regions of the photograph based on the distance information. At page 13, lines 4-6, applicant notes that the photograph in which selective brightness adjustments are made may be taken from a series of photographs used to determine the distances to objects in the scene. As such, the step of taking a photograph of the scene without using a flash may be performed before the step of determining distances from the camera to objects in a scene is completed.

A limitation has been deleted from each of claims 2 and 8. Claim 9 has been amended for clarity of language.

Additionally, claims 4 and 11 have been amended to correct a typographical error common to both claims. Namely, one occurrence of the word "in" has been replaced with the word "are" in each of these claims.

Claims 1, 5, 7, 12 and 14 have been rejected under 35 U.S.C. 102(b) as being anticipated by Miyadera, et al. (U.S. Patent No. 5,550,587).

Claim 1 has been amended to include the limitation that the photograph is taken of the scene without using a flash. This change finds support at numerous places in the specification, including, for example, at page 11, lines 1-3 and at page 13, line 19 through page 14, line 7.

By contrast, Miyadera discloses a method for selectively adjusting the white balance of regions of a photograph that is taken using a flash. This is done in order to compensate for the varying effect on the color of a photograph caused by the varying ratio of flash illumination and ambient illumination with distance from the camera. See, for example the following portions of the Miyadera patent: abstract; column 1, lines 60-67; and column 6, lines 38-48.

Because Miyadera adjusts only photographs that have been taken using a flash, the additional limitation that the photograph of Applicant's claim 1 is taken without using a flash distinguishes Applicant's invention. Because not all of the limitations of Applicant's claim 1 as amended are not found in Miyadera, claim 1 is not anticipated by Miyadera, and is therefore believed allowable.

Claim 5 depends from claim 1 and adds further limitations. It is therefore also not anticipated by Miyadera, and is believed allowable.

Similarly, claims 7 and 14 have been amended to include the limitation that the photograph is taken of the scene without using a flash. As is explained above with respect to claim 1, claims 7 and 14 as amended are not anticipated by Miyadera and are believed allowable.

Claim 12 depends from allowable claim 7 and adds further limitations, and is therefore also believed allowable.

Claims 2-4, 8, and 10-11 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Miyadera et al. in view of Parulski et al. (U.S. Pat. No. 5,563,658). The examiner relies on Miyadera to supply all of the limitations of independent claims 1 and 7, and on Parulski to supply the additional limitations of dependent claims 2-4, 8, and 10-11.

Claims 1 and 7 have been amended to include a limitation not found in Miyadera, and the added limitation is also not found in Parulski. The combination of Miyadera and Parulski do not teach or suggest all of the limitations of Applicant's claims 2-4, 8, and 10-11, and Applicant believes these claims to be allowable.

Claims 6 and 13 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Miyadera et al. The examiner relies on Miyadera to supply all of the limitations of independent claims 1 and 7, and takes official notice that the additional limitations of dependent claims 6 and 13 are known in the art.

Claims 1 and 7 have been amended to include a limitation not found in Miyadera, and claims 6 and 13 depend respectively from claims 1 and 7 and add further limitations. Miyadera, even in view of official notice, does not teach or suggest all of the limitations of Applicant's claims 6 and 13, and Applicant believes these claims to be allowable.

Claim 9 has been rejected under 35 U.S.C. 103(a) as being unpatentable over Miyadera et al. in view of Parulski et al. The examiner relies on Miyadera and Parulski to supply all of the limitations of claim 8 (which depends from claim 7), and takes official notice that the additional limitations of dependent claim 9 are known in the art.

Claim 7 has been amended to include a limitation not found in Miyadera or Parulski, and claim 9 depends from claim 7 and adds further limitations. Miyadera and Parulski, even in view of official notice, do not teach or suggest all of the limitations of Applicant's claim 9, and Applicant believes this claim to be allowable.

Claims 15-24 have been newly added. Claims 15-22 find support in the specification at page 11, lines 15-22. Claims 23 and 24 find support in the specification at page 13, lines 4-6.

Each of the added claims depends from an allowable claim and adds further limitations, and is therefore believed allowable.

The examiner has made of record but not relied upon Park (U.S. Pat. No. 4,782,396), Omata et al. (U.S. Pat. No. 6,067,114), Nishimura et al. (U.S. Pat. No. 5,617,141), Kitajima (U.S. Pat. No. 5,808,681), Hirabayashi et al. (U.S. Pat. No. 6,021,209), Sakai et al. (U.S. Pat. No. 4,641,942), and Nishitani (U.S. Pat. No. 5,515,448). None of the cited art, taken singly or in combination, teaches or suggests all of the elements of Applicant's claims.

Applicant believes this application is in condition for allowance, and such action is earnestly solicited.

Respectfully submitted,

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